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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

JUDY MAY, Individually, and on Behalf of  
All Others Similarly Situated,

No.

**Plaintiff,**

## **CLASS ACTION COMPLAINT**

V.

GOOGLE LLC, GOOGLE ARIZONA LLC,  
GOOGLE PAYMENT CORP., ALPHABET,  
INC., and DOES 1 Through 10, Inclusive,

**DEMAND FOR JURY TRIAL**

### Defendants.

1 Plaintiff JUDY MAY (“Plaintiff”), individually, and on behalf of all others similarly  
 2 situated, brings this Class Action Complaint (“Complaint”) against Defendants GOOGLE LLC,  
 3 GOOGLE ARIZONA LLC, GOOGLE PAYMENT CORP., and ALPHABET, INC.  
 4 (collectively, “Google”) and DOES 1 through 10 (collectively, with Google, “Defendants”). The  
 5 following allegations are based upon personal knowledge as to Plaintiff’s own facts, upon  
 6 investigation by Plaintiff’s counsel, and upon information and belief where facts are solely in the  
 7 possession of Defendants.

8 **NATURE OF THE CASE**

9 1. Over nearly a decade, Google has knowingly kept millions of dollars in stolen  
 10 money from victims of gift card scams who purchased Google Play gift cards. Google has done  
 11 so despite the fact that some of the victims of the theft, described herein as the “Contact Subclass,”  
 12 have contacted Google directly and provided Google with the information necessary to identify  
 13 and return their stolen funds.

14 2. Google’s practice of knowingly keeping stolen funds is, standing alone, unfair. It  
 15 is also, standing alone, unlawful.

16 3. Google also employs a number of practices designed to perpetuate the theft at issue  
 17 – a common gift card scam well known to Google – and to make it easier for Google to keep the  
 18 stolen funds for itself. Those practices alone, and particularly when taken together, are unfair and  
 19 unlawful.

20 4. Google plays a direct and vital role in the gift card scams by allowing gift cards  
 21 which it knows were involved in fraud to be redeemed and spent on digital currency and/or digital  
 22 products which scammers can resell for currency.

23 5. Google profits directly from that role in one of two ways. Google sometimes  
 24 deposits a percentage of the stolen money into Google Play Developer accounts, while unfairly  
 25 and unlawfully retaining the remainder of the stolen money as its own commission of  
 26 approximately 15%-30% of the face value of the gift card. Google retains these commissions  
 27 despite actual knowledge that specific gift cards were purchased as the result of fraud. On  
 28

1 information and belief, Google sometimes withholds payments for purchases made with scammed  
2 gift cards from Google Play Developers and retains 100% of the stolen money for itself.

3       6. Google has failed to refund the money paid to Plaintiff and the Class for stolen gift  
4 cards. Instead, Google retains up to 100% of the stolen money despite having knowledge that the  
5 gift cards were purchased as the result of a gift card scam.

## **PARTIES**

7       7. Plaintiff Judy May is a resident and citizen of Brownsville, Indiana. In  
8 approximately April 2021, Plaintiff May purchased \$1,000.00 in Google Play gift cards as a result  
9 of the gift card scam. She thereafter contacted Google to report the scam. Google informed her  
10 that there was nothing it could do and that it would not refund the monies she had paid for the  
11 Google Play gift cards. Plaintiff May requested but has received no refund or reimbursement from  
12 Google or any other source.

13       8.     Defendant Google LLC is a business incorporated under the laws of the State of  
14 Delaware with its principal place of business at 1600 Amphitheatre Parkway, Mountain View,  
15 California 94043. Google LLC designs its products in California, and its marketing efforts  
16 emanate from California. Defendant Google LLC is a citizen of the State of California.

17       9.     Defendant Google Arizona LLC is a business incorporated under the laws of the  
18 State of Arizona with its principal place of business located at 1600 Amphitheatre Parkway,  
19 Mountain View, California 94043. Defendant Google Arizona LLC is a citizen of the State of  
20 California.

21        10.      Defendant Google Payment Corp. is a Delaware corporation with its principal place  
22 of business located at 1600 Amphitheatre Parkway, Mountain View, California 94043. Defendant  
23 Google Payment Corp. is a citizen of the State of California.

24        11. Defendant Alphabet, Inc. is a Delaware corporation with its principal place of  
25 business located at 1600 Amphitheatre Parkway, Mountain View, California 94043. Defendant  
26 Alphabet, Inc. is the parent company of the other Google Defendants and is a citizen of the State  
27 of California.

1       12. The true names and capacities of the Defendants sued herein as DOES 1 through  
2 10, inclusive, are currently unknown to Plaintiff, who therefore sues such Defendants by such  
3 fictitious names. Each of the Defendants designated herein as DOE is legally responsible in some  
4 manner for the unlawful acts referred to herein. Plaintiff will seek leave of Court to amend the  
5 Complaint to reflect the true names and capacities of the Defendants designated herein as DOES  
6 when such identities become known.

## **JURISDICTION AND VENUE**

8       13. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C.  
9 §1332 because: (1) there is an aggregate amount in controversy exceeding \$5,000,000, exclusive  
10 of interest or costs, and (2) there is minimal diversity because at least one Plaintiff and Defendants  
11 are citizens of different states. This Court has supplemental jurisdiction over the state law claims  
12 pursuant to 28 U.S.C. §1337(a).

13        14. This Court may exercise jurisdiction over Defendants because Google is a citizen  
14 of this District, maintains its principle place of business in this District, has continuous and  
15 systematic contacts with this District, does substantial business in and within this District, receives  
16 substantial revenues from marketing, distribution, and sales of Google Play gift cards in this  
17 District, and engages in unlawful practices in this District as described in this Complaint, so as to  
18 subject itself to the personal jurisdiction of this District, and thus rendering the exercise of  
19 jurisdiction by this Court proper and necessary.

20        15.     Venue is proper in this judicial District pursuant to 28 U.S.C. §1331(b) because  
21 Google is headquartered in this District, advertises in this District, receives substantial revenues  
22 and profits from the sale of Google Play gift cards which it directs into the stream of commerce in  
23 this District. As such, a substantial part of the events or omissions giving rise to the claims alleged  
24 herein occurred in this District.

25        16. Intradistrict Assignment (L.R. 3-2(c) and (e) and 3-5(b)): This action arises in  
26 Santa Clara County, in that a substantial part of the events which give rise to the claims asserted  
27 herein occurred in Santa Clara County. Pursuant to L.R. 3-2(e), all civil actions that arise in Santa  
28 Clara County shall be assigned to the San Jose Division.

1                   **FACTUAL ALLEGATIONS**

2         17. Google acknowledges that its Google Play gift cards are used by scammers to steal  
 3 money from consumers. Google describes the Google Play gift card scam as follows:

4             Scammers can use different ways to trick people into providing Google Play gift  
 5 cards. In most situations, the scammers will call, saying that you owe money for  
 6 taxes, bail money, debt collection, and more. Then they'll tell you that to avoid  
 getting arrested, or getting your SSN, or physical items taken, you have to pay them  
 using gift cards.<sup>1</sup>

7                   **Google's Digital Products**

8         18. Google owns and operates online platforms including the Google Play Store.  
 9 Consumers who access the Google Play Store can purchase and download digital applications for  
 10 mobile devices ("app(s)") or digital multimedia (such as songs, movies, and television shows).

11         19. The Google Play Store hosts millions of apps that consumers purchase or download  
 12 directly from the Google Play Store. Google separates the apps available on the Google Play Store  
 13 into different categories, including various types of free apps and paid apps.<sup>2</sup>

14                   **Google's Oversight of Its Platforms**

15         20. Google reviews all apps before they are made available for consumers on the  
 16 Google Play Store. Before an app is available on the Google Play Store, developers must submit  
 17 the prospective app to Google for review and approval.<sup>3</sup> To better protect consumers, Google  
 18 assigns a "team of experts who are responsible for identifying violations" to review each app  
 19 before it becomes available on the Google Play Store.<sup>4</sup>

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 21  
 22         <sup>1</sup> See *What to Do if You're a Victim of a Gift Card Scam*, GOOGLE PLAY HELP CENTER,  
 23 available at <https://support.google.com/googleplay/answer/9361829?hl=en> (last visited Feb. 12,  
 2024).

24         <sup>2</sup> See *Google Play Commerce – Monetization Options*, GOOGLE PLAY ANDROID DEVELOPER,  
 25 available at <https://developer.android.com/distribute/best-practices/earn/monetization-options> (last visited Feb. 12, 2024).

26         <sup>3</sup> See *Creating Better User Experiences on Google Play*, ANDROID DEVELOPERS BLOG (Mar.  
 27 17, 2015), available at <https://android-developers.googleblog.com/2015/03/creating-better-user-experiences-on.html>; *Improving the Update Process with your Feedback*, ANDROID DEVELOPERS  
 28 BLOG (Apr. 15, 2019), available at <https://android-developers.googleblog.com/2019/04/improving-update-process-with-your.html>.

4         <sup>4</sup> See *Creating Better User Experiences on Google Play*, *supra* n.3.

1       21. Google represents that most apps are reviewed within “a matter of hours” of the  
 2 developer’s submission.<sup>5</sup> Google boasts that it frequently suspends developer accounts for  
 3 violation of the developer policies.<sup>6</sup> Google may require the developer to modify or remove  
 4 functions from the app.<sup>7</sup> Google thus has knowledge of the contents and design of all apps  
 5 available on the Google Play Store.

6       22. One purpose of Google’s review process is to determine whether the app will be  
 7 used for or to facilitate illegal activity. Google reserves the right to reject any app used to facilitate  
 8 or promote illegal activities.<sup>8</sup> After Google approves an app, it becomes available to purchase or  
 9 download from the Google Play Store. Google reserves the right to remove an approved app, and  
 10 suspend or terminate the developer’s account, if an app is suspected of facilitating illegal activity.<sup>9</sup>

## 11 **Payment for Google’s Digital Products**

12      23. Google receives a commission (which it calls a “service fee”) on all sales of paid  
 13 apps, purchases made within apps (“in-app purchases”), and paid subscriptions to apps.<sup>10</sup> The  
 14 commission Google receives is approximately 15%-30% of the amount of the Google Play gift  
 15 card.

16      24. To purchase digital content from the Google Play Store, consumers must create and  
 17 register an account with Google, called a “Google Account.”<sup>11</sup> Purchasing songs, movies, or apps  
 18

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19      <sup>5</sup> See *id.*

20      <sup>6</sup> See *Improving the Update Process with your Feedback*, *supra* n.3.

21      <sup>7</sup> See *id.*

22      <sup>8</sup> See *Illegal Activities — Play Console Help*, GOOGLE, available at  
<https://support.google.com/googleplay/android-developer/answer/9878877> (last visited Feb. 12,  
 23 2024); *Developer Program Policy — Play Console Help*, GOOGLE, available at  
<https://support.google.com/googleplay/android-developer/answer/13837496?hl=en> (last visited  
 24 Feb. 12, 2024).

25      <sup>9</sup> See *Developer Policy Program*, *supra* n.8.

26      <sup>10</sup> See *Service Fees — Play Console Help*, GOOGLE, available at  
<https://support.google.com/googleplay/android-developer/answer/112622> (last visited Feb. 12,  
 27 2024). The service is reduced to 15% for subscriptions retained after a 12-month period. *Id.*

28      <sup>11</sup> See *Google Account*, GOOGLE, available at <https://www.google.com/account/about/> (last visited Feb. 12, 2024).

1 from the Google Play Store requires the purchaser to sign in to the user's unique Google Account  
 2 and provide Google with a valid method of payment.

3       25. To create a Google Account, consumers must provide Google with a name, valid  
 4 email address, billing information, and other personal information.<sup>12</sup> Google requires that all  
 5 Google Accounts be verified with a telephone number or the email address associated with the  
 6 Google Account.<sup>13</sup>

7       26. Consumers make purchases from the Google Play Store by providing Google with  
 8 their credit or debit card information, through PayPal, or with Google Play gift cards.<sup>14</sup>

9 **App Developers**

10      27. Individuals and companies who develop apps for distribution on the Google Play  
 11 Store are known as "Google Play Developers." Google Play Developers are required to create and  
 12 register a Google Account, enter into the Google Play Developer Distribution Agreement, and pay  
 13 a \$25 registration fee.<sup>15</sup> Further, Google may request that Google Play Developers provide Google  
 14 with a valid government ID and a credit card under the developer's legal name.<sup>16</sup>

15      28. If Google Play Developers want to distribute an app that charges a fee for download  
 16 and/or has in-app purchases, they can use Google Play's billing system,<sup>17</sup> which requires the  
 17 Google Play Developer to provide Google with the developer's bank account information, physical  
 18  
 19  
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21      <sup>12</sup> See *Privacy Policy*, GOOGLE, available at: <https://policies.google.com/privacy> (last visited  
 22 Feb. 12, 2024).

23      <sup>13</sup> See *id.*; *Verify Your Account – Google Account Help*, GOOGLE, available at  
<https://support.google.com/accounts/answer/114129?hl=en> (last visited Feb. 12, 2024).

24      <sup>14</sup> See *Accepted Payment Methods on Google Play*, GOOGLE, available at  
<https://support.google.com/googleplay/answer/2651410?co=GENIE.CountryCode%3DUnited+States&hl=en> (last visited Feb. 12, 2024).

25      <sup>15</sup> See *How to Use Play Console – Play Console Help*, GOOGLE, available at  
<https://support.google.com/googleplay/android-developer/answer/6112435> (last visited Feb. 12, 2024).

26      <sup>16</sup> See *id.*

27      <sup>17</sup> On information and belief, use of Google Play's billing system was mandatory up to a  
 28 certain date known to Google.

1 address, legal name, and contact information.<sup>18</sup> Google Play Developers appoint Google as their  
 2 agent relative to their apps made available on the Google Play Store.<sup>19</sup>

3       29.     Google pays Google Play Developers after a consumer purchases an app from the  
 4 Google Play Store, makes an in-app purchase, or pays a subscription to an app downloaded from  
 5 the Google Play Store. Google makes all payments to Google Play Developers electronically.<sup>20</sup>

6       30.     Google does not pay Google Play Developers immediately after a consumer  
 7 completes a transaction. First, Google waits two hours after a consumer purchases an app or game  
 8 from the Google Play store before charging the buyer's form of payment to allow buyers to cancel  
 9 a purchase.<sup>21</sup> Then, even after it has collected payment from the consumer, Google does not  
 10 initiate payment to the Google Play Developer until at least the 15th of the month following the  
 11 month when the purchase occurred.<sup>22</sup> Moreover, Google will not transfer payment unless the  
 12 Google Play Developer meets the minimum payment threshold for that period.<sup>23</sup> As such, there is  
 13 a delay of at least two weeks, and usually more, between the time when a consumer makes a  
 14 purchase in the Google Play Store and the time when Google pays the Google Play Developer.

15 **Google Play Gift Cards**

16       31.     Google sells Google Play gift cards which can be used to make purchases in the  
 17 Google Play Store, or inside of apps purchased or downloaded from the Google Play Store (as  
 18 noted, the latter are often called "in-app purchases"). Google sells Google Play gift cards indirectly  
 19 to consumers through retailers such as grocery stores and convenience stores.

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 21       <sup>18</sup> See *Google Play Developer Distribution Agreement*, supra n.10; *Payments – Play Console Help*, GOOGLE, available at <https://support.google.com/googleplay/android-developer/answer/9858738?hl=en> (last visited Feb. 12, 2024); *Create a Payments Profile – Google Payments Center Help*, GOOGLE, available at: <https://support.google.com/paymentscenter/answer/7161426?hl=en> (last visited Feb. 12, 2024).

22       <sup>19</sup> See *Google Play Developer Distribution Agreement*, supra n.10.

23       <sup>20</sup> See *Merchant Payout Schedule – Google Payments Center Help*, GOOGLE, available at <https://support.google.com/paymentscenter/answer/7159355> (last visited Feb. 12, 2024); *Order Processing & Payouts – Play Console Help*, GOOGLE, available at <https://support.google.com/googleplay/android-developer/answer/137997> (last visited Feb. 12, 2024).

24       <sup>21</sup> See *Order Processing & Payouts*, supra n.21.

25       <sup>22</sup> See *id.*

26       <sup>23</sup> See *id.*

1       32. Google Play gift cards generally are sold for the amount shown on the face of the  
 2 gift card (or an amount selected by the consumer within the range reflected on the face of the card),  
 3 and the amount of stored value activated on the card is generally equal to the amount paid by the  
 4 consumer.

5       33. Every Google Play gift card has a unique redemption code on the back of the card.  
 6 Google Play gift cards cannot be activated until purchased. That is, the value stored on cards  
 7 sitting on a display rack is dormant until a consumer takes them to the register and purchases them.  
 8 At the point of purchase, the retailer activates the Google Play gift card and the value stored on  
 9 the card becomes available for redemption. Unless properly activated, a Google Play gift card  
 10 cannot be redeemed. Through point-of-sale activation data, Google knows the moment a particular  
 11 Google Play gift card has been purchased and when the stored value is activated on the card.

12 **Google Accounts**

13       34. A valid Google Account is required to redeem Google Play gift cards. Consumers  
 14 redeem Google Play gift cards by logging into their Google Account and entering the redemption  
 15 code on the back of the card. The stored value on the Google Play gift card is then transferred to  
 16 the consumer's Google Account and is immediately available to make purchases in the Google  
 17 Play Store.

18       35. When a Google Play gift card is redeemed and all the stored value on the card is  
 19 transferred to the redeemer's Google Account, the card itself once again has no value.

20       36. Google tracks redemption codes and serial numbers of Google Play gift cards.  
 21 When a Google Play gift card is redeemed, Google knows which card it was and which Google  
 22 Account was used to redeem it.

23 **Google Play Gift Card Terms and Conditions**

24       37. The packaging for Google Play gift cards contains minimal terms and conditions.<sup>24</sup>  
 25 For example, the packaging visible to consumers prior to purchase often provides:

26       **Terms and Conditions:** See play.google.com/us-card-terms for full terms. Must  
 27 be 13+ years of age, US resident. Google Play card is issued by Google Arizona

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28       <sup>24</sup> Google occasionally changes the language on the Google Play gift cards and their  
 packaging, but the terms on all Google Play gift cards and packaging are substantially similar.

LLC (“GAZ”). Requires Google Payments account and Internet access to redeem. Redeemed balance is maintained by GAZ’s affiliate, Google Payment Corp. (“GPC”), in your Google Payments account. Usable for purchases of eligible items on Google Play only. Not useable for hardware and certain subscriptions. Other limits may apply. No fees or expiration dates. Except as required by law, card not redeemable cash or other cards; not reloadable or refundable; cannot be combined with other non-Google Play balances in your Google Payments account, resold, exchanged or transferred for value. User responsible for loss of card. For assistance or to view your Google Play card balance, visit [support.google.com/googleplay/go/cardhelp](http://support.google.com/googleplay/go/cardhelp). To speak to customer care call us at 1-855-466-4438.

38. The web address on the back of the Google Play gift card packaging directs users to the full terms and conditions for Google Play gift cards (the “Online Terms and Conditions”). The Online Terms and Conditions, which apply to Google Play gift cards and their related codes (together, “Credits”) provide, *inter alia*, that:

**Limitations.** The Gift Card or Credit may be used for purchases of eligible items on Google Play only. Limits may apply to redemption and use. Items ineligible for purchase using Gift Card or Credit include certain items in the “Devices” section of Google Play (e.g., phones, tablets and related device accessories) . . . . The Gift Card or Credit is not redeemable for cash or other cards, is not reloadable or refundable, cannot be combined by you with other non-Google Play balances in your Google Payments account, and cannot be resold, exchanged or transferred for value, except as required by law. . . .

\* \* \*

**Fraud.** [Google is] not responsible if a Gift Card or Credit is lost, stolen, destroyed or used without your permission. [Google] will have the right to close customer accounts and bill alternative forms of payment if a fraudulently obtained Gift Card or Credit is redeemed and/or used to make purchases on Google Play.

\* \* \*

**General Terms.** . . . When you purchase, receive or redeem a Gift Card or Credit, you agree that the laws of the State of California apply, without regard to principles of conflict of laws, and that such laws will govern these Gift Card and Credit terms and conditions.<sup>25</sup>

39. When consumers purchase a Google Play gift card at retail, they become bound by the terms on the packaging, which incorporate the full Online Terms and Conditions. However,

<sup>25</sup> See Google Play Gift Card and Prepaid Play Balance Terms of Service, GOOGLE (May 1, 2019), available at [https://play.google.com/intl/en\\_us/about/card-terms/](https://play.google.com/intl/en_us/about/card-terms/).

1 no victim of a Google Play gift card scam is bound by Google's attempt to apply its disclaimer  
 2 language, which purports to limit Google's liability for Google Play gift cards which are lost,  
 3 stolen, or used without permission. Google cannot disclaim liability for its own intentional  
 4 conduct nor disclaim liability for loss or damage resulting from its own unfair and unlawful  
 5 conduct.

6       40. Google's attempt to disclaim liability for loss or damage resulting from Google  
 7 Play gift card scams is unconscionable and unenforceable in light of its role in those scams, the  
 8 profit that it makes and retains from such scams, its violation of California law in connection with  
 9 those scams, and the adhesive nature of the terms and conditions imposed upon scam victims who  
 10 purchase Google Play gift cards.

11       41. Google understands that the scams involve deceiving consumers into believing that  
 12 they have an immediate need to make payment, and that gift cards are the only acceptable form of  
 13 payment.

14       42. Thus, Google knows that scam victims believe they must purchase gift cards, yet  
 15 for much of the Class Period Google made no effort whatsoever to warn consumers at the time and  
 16 place where the scam can be avoided entirely – namely, in the retail store prior to purchase where  
 17 targets of the scam can be prevented from having their money stolen through fraudulently induced  
 18 Google Play gift card purchases.

19       43. Google knows that all targets of gift card scams will go to a retail location and select  
 20 a Google Play gift card from a retail sales rack, believing it to be the only acceptable form of  
 21 payment under urgent circumstances. Yet, even now Google does not describe the scam or  
 22 unequivocally inform consumers prior to the sale of that card, *i.e.*, on the packaging, that anyone  
 23 who is asking for Google Play gift cards as a form of payment is a scammer.

24       44. Indeed, Google fails to make this statement unequivocally, despite the fact that the  
 25 FTC states that “anyone who insists that you pay by gift card is ***always*** a scammer.”<sup>26</sup>  
 26

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27       26      Traci Armani, *Did Someone Tell You to Pay with Gift Cards? It’s a Scam*, FED. TRADE  
 28 COMM’N (Sept. 11, 2020), <https://consumer.ftc.gov/consumer-alerts/2020/09/did-someone-tell-you-pay-gift-cards-its-scam> (last visited Mar. 3, 2024).

1       45. Instead, at some point during the Class Period, Google added a more anemic  
 2 warning. It began instructing victims to “[o]nly use this gift card’s code on Google Play. Any  
 3 other request for the code ***may*** be a scam. . . .”<sup>27</sup>

4       46. Google knows its “warning” language fails to inform potential victims of the nature  
 5 of Google Play gift card scams or give them the information they need to avoid becoming a victim.  
 6 Indeed, Google knows that scam victims are generally unaware of the types of products and  
 7 services available through the Google Play Store and therefore do not understand the proper scope  
 8 of Google Play gift card use.

9       47. There is a reason that, for many years while the scam was rampant, Google did not  
 10 place ***any*** warning on the packaging, and still does not employ an effective warning. Google  
 11 recognizes that more gift cards will be sold if people who otherwise had no intent to purchase  
 12 Google Play gift cards – such as Plaintiff – are successfully persuaded to do so by scammers and  
 13 are ***not*** then dissuaded by an effective warning.

14       48. Google can sell more gift cards and generate more revenue from gift card sales if  
 15 the targeted victims actually purchase Google Play gift cards. As such, Google has a direct stake  
 16 in the success of these scams.

## 17 **The Google Gift Card Scam Costs Hundreds of Millions of Dollars or More**

18       49. The overwhelming majority of gift card scam victims do not report the scam to the  
 19 Federal Trade Commission (“FTC”). Yet even the losses of the small percentage of victims who  
 20 do report to the FTC exceeded an estimated \$433.5 million during 2018-2021, with the dollar  
 21 amounts increasing significantly each year.<sup>28</sup> According to FTC data, Google Play gift cards can,  
 22 and have in the past, make up approximately 20% of all gift card scams. Further, this figure is  
 23  
 24

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25       <sup>27</sup> Emphasis is added throughout unless otherwise noted.

26       <sup>28</sup> Emma Fletcher, *Scammers Prefer Gift Cards, But Not Just Any Card Will Do*, FED. TRADE  
 27 COMM’N (Dec. 8, 2021), at n.3 (“From January 2021 through September 2021, 39,263 reports  
 28 indicating \$147.8 million in gift card and reload card payments were submitted, compared to  
 36,682 reports indicating \$115.1 million in reported gift card payments in all of 2020. Earlier year  
 figures for comparison purposes are as follows: 35,323 reports with \$100 million reported lost  
 (2019), 32,084 reports with \$70.6 million reported lost (2018).”).

1 limited to consumers who know they can report to the FTC and then fill out a detailed online FTC  
 2 form asking for their personal information.

3       50.     Given that not all consumers know, or know how, to report gift card scams to the  
 4 FTC, as well as the time required to fill out the FTC form and its potential privacy implications, it  
 5 can reasonably be inferred that only a small percentage of victims submit a report to the FTC. As  
 6 a result, the publicly reported \$433.5 million figure for the period 2018-2021 appears to reflect  
 7 only a small portion of the actual gift card scams that have taken place.

8       51.     As noted, the FTC reports that Google Play gift card scams reflect 20% of the total  
 9 \$433.5 million gift card scam reported to the FTC. The 20% equals \$86.7 million, for the four  
 10 year period from 2018-2021, or \$21.675 million per year. If only 10% of scam victims report to  
 11 the FTC, the total amount of money scammed through Google Play gift cards would approach  
 12 \$210 million per year, and over \$800 million during the four-year period from 2018-2021, and in  
 13 excess of \$1 billion dollars if calculated through 2023. Google's 15-30% commission on funds  
 14 spent in the Google Play ecosystem alone equals \$150 million-\$300 million in ill-gotten proceeds  
 15 to Google.<sup>29</sup>

16       52.     Many victims do not report gift card fraud to Google, the FTC or any law  
 17 enforcement entity,<sup>30</sup> and even if they do, there is no guarantee their information will be  
 18 investigated, much less included in a law enforcement subpoena or other formal government  
 19 request for information to Google.

20       53.     Notwithstanding, Google is aware of the widespread nature of the scam and has  
 21 been for years. Google has been receiving inquiries from victims and requests for information  
 22 from law enforcement for years, beginning on a date known only to Google.

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23       <sup>29</sup> In addition, it is likely that Google freezes Google Accounts and Google Play Apps that it  
 24 knows to have been involved in the Google Play gift card scam. Based on its policy, these sums  
 25 are not returned to scam victims and would constitute additional proceeds that Google keeps,  
 26 separate and apart from its commission.

27       <sup>30</sup> See, e.g., Tamara Lytle, *Gift Cards are for Gifts – Not Grifters*, AARP (Nov. 7, 2019),  
 28 <https://www.aarp.org/money/scams-fraud/info-2019/prevent-gift-card-fraud.html> (director of  
 fraud victim support at the American Association for Retired Persons, or AARP, says that victims  
 often do not contact law enforcement because “[t]hey are embarrassed and ashamed and they don't  
 think it does any good”).

1           **The Mechanics of the Google Play Gift Card Scam**

2           **Step One: Victims Buy Google Play Gift Cards and Provide Codes to Scammers**

3           54.       As Google acknowledges, the first step in the typical Google Play gift card scam is  
 4 to convince the victim “to buy a Google Play gift card and share the code so that you can pay for  
 5 something outside Google Play.” Google describe the typical scams in formulaic terms:

6           A scammer calls and pretends to be from a government agency (like the IRS in the  
 7 US. Other countries have agencies with different names). The scammer says that  
 8 you owe money for taxes, bail money, debt collection, and more. They tell you that  
 9 to avoid arrest, or to prevent the seizure of physical items or your personal  
 identification information (like your SSN in the US. Other countries use different  
 names), you have to pay them with gift cards.

10          A scammer claims to be a family member in trouble, an attorney, or another  
 11 representative of your family member. The scammer tells you that they need to be  
 12 paid in gift cards in order to remedy the situation. They may deter you from  
 attempts to contact the family member to verify the claim. Don’t believe them.  
 Never buy gift cards for them or provide them with any gift card codes.

13          These examples only cover some types of scams. Scammers constantly change the  
 14 ways they trick people. If anyone asks you for a code, it could be a scam.<sup>31</sup>

15          55.       If scammers successfully convince a victim to make an initial purchase of Google  
 16 Play gift cards and share the codes, they will often demand that the victim purchase additional  
 17 rounds of Google Play gift cards and share the additional codes.

18           **Step Two: Redeeming the Google Play Gift Cards Onto Google Accounts**

19          56.       Once scammers obtain the redemption codes, the next step in obtaining money from  
 20 the scams is redeeming the gift cards and transferring the stored value from the cards into a Google  
 21 Account. Google knows which Google Accounts the gift cards have been redeemed into.

22          57.       Scammers usually redeem the stored value onto their own scammer-controlled  
 23 Google Accounts to make in-app purchases, and then sell the digital items purchased on third-

24  
 25  
 26          <sup>31</sup> See *What to do if you’re a victim of a Google Play gift card scam*, GOOGLE, available at  
 27 <https://support.google.com/googleplay/answer/9057338> (last visited Feb. 12, 2024); see also *What*  
 28 *to do if you’re a victim of a gift card scam*, *supra* n.1; *Avoiding and Reporting Gift Card Scams*,  
 FED. TRADE COMM’N, available at <https://www.consumer.ftc.gov/articles/paying-scammers-gift-cards> (last visited Feb. 12, 2024).

1 party markets. In this situation, Google earns commissions from the in-app purchases made by  
 2 the scammers, and the scammers profit by reselling their in-app purchases.

3       58. Alternatively, scammers can resell the redemption codes. On the rare occasions  
 4 when this occurs, it is the buyer in the illicit transaction that redeems the code onto his or her  
 5 Google Account. Due to the discounts and delays associated with resale markets and the  
 6 counterparty risks, the latter method of monetizing stolen gift cards is the less profitable and by  
 7 far less common way of obtaining money through Google Play gift card scams. In any event,  
 8 Google keeps a commission even when the scammer resells the redemption code.

9           **Step Three: Spending the Stored Value on Apps or Google Play Products**

10       59. The third step involves spending the redeemed stored value in the Google Play  
 11 Store.

12       60. The Google Account that redeemed the gift card, which account is nearly always  
 13 controlled by the scammer, will spend stored value by purchasing digital content, that is,  
 14 purchasing apps or making in-app purchases.

15       61. By this point, Google has many important data points: (1) the retail store where the  
 16 gift cards were purchased, together with the date and time of purchase, the amount of value stored  
 17 on the card, and, on information and belief, other data related to the purchase including, but not  
 18 limited to, the number of cards purchased; (2) the identity of the Google Account(s) used to redeem  
 19 the gift cards; and (3) the nature and timing of Google Play purchases made with the gift cards.

20           **Step Four: Google and the Scammers Profit**

21       62. At least 15 days after the end of the month when a purchase was made in the Google  
 22 Play Store, Google pays the Google Play Developer 70%-85% of the purchase price of the digital  
 23 goods and retains the remainder of the stolen money as its own commission.

24       63. Google keeps this commission regardless of whether the gift card is redeemed and  
 25 spent by the scammer (who resells the in-app purchases and obtains money from the resale) or by  
 26 a third party who purchased the stolen gift card from the scammer.

27

28

1                   **Google Perpetuates and Profits from the Google Play Gift Card Scam**

2         64. Victims usually realize they have been scammed within a few hours or days, and  
 3 often contact Google before any of the money stolen from them has been paid out to Google  
 4 Developers. When victims identify themselves and provide the codes from the gift cards they  
 5 purchased, Google then knows that the money used to purchase those particular gift card codes  
 6 was stolen, and that scammers are in the process of attempting to launder that money through  
 7 Google's platform for the scammers' own use.

8         65. Google thus knows that it has possession and control of stolen property, and knows  
 9 the identity of, and contact information for, the rightful owner.

10        66. When Google learns that it has possession of stolen property, it has a duty to return  
 11 it to its rightful owner, the victim. However, Google neither returns it nor informs the rightful  
 12 owner of its whereabouts.

13        67. Instead, Google represents it has a "no refund" policy. Google states on its cards  
 14 and packaging that its gift cards are not refundable, and directs victims to its Online Terms of  
 15 Service, in which Google states that it is "not responsible if a Gift Card or Credit is lost, stolen,  
 16 destroyed or used without your permission."

17        68. Google's website further discourages victims from contacting Google. Google's  
 18 language contained on its cards, packaging, and website represent that cards will not be refunded,  
 19 reloaded, or replaced, and that the only thing Google will do if a victim contacts them is investigate  
 20 the scam and potentially prevent future scams.

21        69. Google even goes so far as to encourage victims to report the scam to the FTC or  
 22 law enforcement *before* reporting it to Google. Google does this despite the fact that time is of  
 23 the essence.

24        70. Google further discourages victims from contacting it by telling them that, "[o]nce  
 25 you provide the codes to a scammer, they'll likely spend the funds on the card immediately."<sup>32</sup>  
 26 This statement is highly misleading and suggests to victims that there is, in fact, nothing Google  
 27

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28        <sup>32</sup> See *What to do if You're a Victim of a Gift Card Scam*, supra n.1.

1 can do. Further, Google neither informs consumers that it is keeping a percentage, or in certain  
2 instances up to 100%, of the money stolen from victims nor does Google inform victims that it  
3 keeps that money for at least 15 days after the end of the month the transaction took place before  
4 paying third-party vendors.

5       71. Instead, Google allows victims to believe that the scammers have used the cards to  
6 purchase apps, songs, and other content, and that Google therefore no longer has the money.

7       72. Victims thus believe that the money which was stolen from them at the point of  
8 retail sale of the Google Play gift cards is now in the hands of third-party content providers, rather  
9 than remaining with Google.

10     73. As a result of the non-refundability language on Google's cards and packaging  
11 (which language is only reinforced by any visits to Google's website and any other online research  
12 about Google Play gift card scams, and echoed by any law enforcement who may be contacted),  
13 most victims believe that any refund effort would be futile, and do not report the scam to Google  
14 nor seek a refund from Google.

15     74. However, some victims do contact Google directly, and thus become members of  
16 the "Contact Subclass" alleged herein.

17     75. If victims of the scam contact Google, it responds uniformly and, on information  
18 and belief, using a standardized protocol or script. Google requests and records victims' names  
19 and contact information and the redemption codes on the back of the Google Play gift cards.  
20 Google then tells the victims that the funds have been spent, and/or that there is nothing Google  
21 can do.

22     76. Google's suggestion that it no longer has the victim's money because the money  
23 has been spent is false.

24     77. Google's suggestions of futility and statements that there is nothing it can do are  
25 similarly false.

26     78. As a result of the language on the card and packaging, and the message conveyed  
27 by Google, when victims call to report the scam, most of the victims who do contact Google quietly  
28

1 accept Google's refusal to issue a refund, and do not pursue legal action, approach the press, nor  
 2 pursue the refusal with law enforcement or legislators.

3       79.     Google remains largely silent about this rampant scheme, addressing it almost  
 4 exclusively through the pages on its websites referenced above, although, on information and  
 5 belief, it has a common corporate protocol for dealing with victims who call Google after realizing  
 6 scammers have swindled them by exploiting Google's gift card system.

7       80.     When Google receives card numbers or redemption codes from victims or law  
 8 enforcement, it can identify:

- 9           • the time and location where the card was purchased and the dollar amount of value  
 10 stored on the card;
- 11           • the Google Account that redeemed the card, including all information relating to that  
 12 account;
- 13           • the timing and content of that Google Account's purchases of apps, digital media,  
 14 and/or in-app purchases made with funds from gift cards;
- 15           • the Google Play Developers associated with the Google Play Store purchases; and
- 16           • whether Google has paid the Google Play Developers for those purchases.

17       81.     Because Google can identify Google Accounts involved in scams, it can suspend  
 18 the Google Accounts that redeemed fraudulently obtained Google Play gift cards.

19       82.     Moreover, because Google does not transfer payment to Google Play Developers  
 20 until at least 15 days after the end of the month of the purchase, Google can stop payment to the  
 21 Google Play Developer's bank account.<sup>33</sup>

22       83.     On information and belief, Google – a highly sophisticated participant in the  
 23 technology industry that monitors and tracks key information at each point in the process of the  
 24 scam from the time the Google Play gift card is sold through redemption and use – possesses other  
 25 means and technology to determine which Google Play gift cards have been redeemed and spent  
 26 by scammers, the Google Account(s) involved in gift card scams, and the identities of gift card  
 27 scam victims.

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28<sup>33</sup>     See, e.g., *Google Play Developer Distribution Agreement*, supra n.18.

1       84. Despite such means and technology, Google uniformly and consistently informs  
 2 victims that there is nothing that Google can do for victims. Google knows that representation is  
 3 false.

4       85. Further, Google fails to inform consumers – online or by telephone – that,  
 5 regardless of whether the Google Play gift card was spent, if the consumer contacts Google after  
 6 becoming the victim of a scam and provides the redemption code to Google, Google can identify  
 7 the Google Account involved in the scam, stop payment to the Google Play Developer account,  
 8 and refund the value of the Google Play gift card to the victim.

9       86. Google has a duty to disclose and not conceal from Plaintiff and Class members the  
 10 foregoing material facts. Google's duty to disclose arises out of: (1) its misrepresentation to  
 11 consumers that there is nothing Google can do as the funds have been spent; and (2) its exclusive  
 12 knowledge and active concealment of material facts which allows Google to identify all accounts  
 13 involved in Google Play gift card scams, stop payment to scammers, and return the value of Google  
 14 Play gift cards to scam victims.

15       87. Google's omissions and false and misleading statements, as set forth above, are  
 16 intentional and done for the purpose of retaining its commission on all purchases made with  
 17 fraudulently obtained Google Play gift cards.

18       88. Further, Google makes Google Play gift cards sold by retailers available for  
 19 purchase in amounts up to \$200. Making Google Play gift cards available in such large  
 20 denominations dramatically increases the amount scammers could obtain from unwitting  
 21 consumers. On information and belief, Google knows that a disproportionate number of high value  
 22 Google Play gift cards were being redeemed by scammers, and yet it continues to sell them and  
 23 earn a profit from same.

24       89. Google also fails to warn consumers about Google Play gift card scams on the  
 25 packaging they will see prior to purchase. Google knows that Google Play gift card scams are  
 26 designed to instill panic and urgency in victims, thus preventing them from doing the research and  
 27 investigation that would lead them to Google's gift card scam webpages. Despite this knowledge,  
 28 for many years, Google provided no warning to consumers on the retail packaging of its gift cards.

1       90. Google could, and should, state prominently on its packaging that telephone and  
 2 internet scams involving gift cards are common and consumers should not purchase the card in  
 3 their hands if they have been asked to do so by persons unknown to them who claim that payment  
 4 by Google Play gift card is urgently needed. Instead, Google fails to adequately warn consumers,  
 5 and perpetuates and profits from Google Play gift card scams.

6       91. Google says nothing on its packaging regarding urgent demands for payment by  
 7 unknown persons. Google instructs, on the back of the card simply, “[o]nly use this gift card’s  
 8 code on Google Play. Any other request for the code may be a scam.” This ineffective warning  
 9 not only fails to alert consumers of the widespread phenomenon known to Google, but for much  
 10 of the Class Period was not used at all or was visible to consumers only after they had already  
 11 purchased a Google Play gift card.

12      92. Google recognizes that more gift cards will be sold if people who have no  
 13 independent desire to purchase them are persuaded to do so by scammers – and because Google  
 14 recognizes that its “no refund” policy and attempted disclaimer of liability will discourage victims  
 15 from seeking refunds, particularly where, as here, those card purchasers proceed to provide the  
 16 codes on the cards to scammers. This allows Google to suggest that the funds have been “spent.”

17      93. Moreover, Google has never provided instructions on its cards or packaging  
 18 directing people who have realized they are victims of gift card scams to call Google immediately  
 19 to identify themselves and report the scam; indeed, Google only recently added any kind of  
 20 statement about scams on the back of the Google Play gift card and packaging. On information  
 21 and belief, Google added the ineffective warning to the back of the Google Play gift cards in 2020.  
 22 Previously, Google did not provide any notice on the back of the gift card or packaging to inform  
 23 consumers that Google Play gift cards are frequently sought by scammers.

24      94. As a direct and proximate result of Google’s conduct, misrepresentations, and  
 25 omissions described herein, Plaintiff and Class members suffered damages including the amount  
 26 of money that Plaintiff and Class members spent on Google Play gift cards that were not refunded  
 27 to them by Google.

28

## **FACTS PERTAINING TO PLAINTIFF**

*Plaintiff Judy May*

95. In or about April of 2021, Plaintiff May received a link from someone purporting to be her family member instructing her to connect with a government agent for grant money from the U.S. Department of Health and Human Services (“HHS”). The purported agent told Plaintiff May that she was eligible for an HHS grant.

7       96. The agent then told Plaintiff May that in order to receive her grant money by same-  
8 day delivery she had to cover certain costs, which would be reimbursed to her on top of the grant  
9 money. The agent instructed Plaintiff May to purchase Google Play gift cards and provide the  
10 codes on the back to cover the costs.

11        97. On April 1, 2021, Plaintiff May purchased a \$200 gift card from a Family Dollar  
12 retail location in Connersville, Indiana, and shared the code with the scammer.

13       98. The next day, April 2, 2021, Plaintiff May was instructed to purchase additional  
14 gift cards to cover the remainder of the costs. Plaintiff May then purchased four additional \$200  
15 gift cards from a CVS Pharmacy retail location in Connersville, Indiana. Plaintiff May shared  
16 these codes with the scammer.

17       99. Plaintiff May read the language on the gift cards she purchased, but remained  
18 unaware of the nature, much less the prevalence, of Google Play gift card scams, and did not realize  
19 she was in the process of being scammed.

100. Had the packaging clearly and prominently advised purchasers of the nature of gift  
card scams and/or stated unequivocally that anyone asking for payments via Google Play gift cards  
was a scammer, Plaintiff May would not have purchased the card.

23       101. However, no such information or statement appeared on either the packaging or the  
24 card, and Plaintiff May provided the codes on the back of the Google Play gift cards to the  
25 scammer.

26       102. Plaintiff May then contacted her relative about the agent she had connected her  
27 with, and at that point learned that the “agent” she had been communicating with by Facebook  
28 messenger was not a government agent and that she was the victim of a gift card scam.

1       103. Plaintiff May contacted Google the next day after realizing she had been victimized  
2 by scammers but was informed that the money had been spent and there was nothing that Google  
3 could do for her.

## **TOLLING OF STATUTES OF LIMITATIONS**

5 104. Any applicable statute(s) of limitations were tolled by Google's knowing, active  
6 concealment, and denial of the facts alleged herein. Google's conduct is inherently self-concealing  
7 because Google does not disclose the details of its ability to monitor and control Google Play gift  
8 card transactions, Google Account activity, and Google Play Store purchases. As a result, Plaintiff  
9 and members of the Class could not have reasonably discovered the true nature of Google's  
10 conduct until shortly before this class action litigation was commenced.

11        105. In addition, even after Plaintiff and Class members contacted Google concerning  
12 gift card scams, Google routinely told them that, if their gift cards were redeemed, there was  
13 nothing Google could do. Google's representations of futility and omission concerning its own  
14 profit from the scam are false and misleading.

15       106. Google was and remains under a continuing duty to disclose to Plaintiff and Class  
16 members the true nature of its involvement in gift card scams, including that it can identify all  
17 accounts involved in the scam, stop payment to scammers, and return the value of Google Play  
18 gift cards to victims. As a result of Google's active concealment, any and all statutes of limitations  
19 otherwise applicable to the allegations herein were tolled.

## **CLASS ALLEGATIONS**

21       107. Plaintiff brings this action, individually, and on behalf of a nationwide class,  
22 pursuant to Federal Rules of Civil Procedure 23(a), 23(b)(2), and/or 23(b)(3), defined as follows:

## Nationwide Class

24 All persons in the United States and its territories who purchased one or more  
25 Google Play gift cards at the direction of people whose identities they did not know  
26 and did not redeem the gift cards for themselves or give them as a gift but instead  
provided the redemption codes to the people whose identities they did not know

(the “Scam”) and were not refunded the money they paid for the gift cards by Google or any other source (the “Class”).

108. The Class Period is initially defined as the period between January 1, 2015 and the present.<sup>34</sup>

109. Pursuant to Federal Rule of Civil Procedure 23(c)(5), Plaintiff also seeks to represent the following subclass:

## Contact Subclass

110. All Class members who contacted Google and reported the Scam. The Nationwide Class and the Contact Subclass shall collectively be referred to herein as the “Class.” Excluded from the Class are: (a) Defendants; (b) Defendants’ affiliates, agents, employees, officers, and directors; (c) Plaintiff’s counsel and Defendant’s counsel; and (d) the judge assigned to this matter, the judge’s staff, and any member of the judge’s immediate family. Plaintiff reserves the right to modify, change, or expand the various class definitions set forth above based on discovery and further investigation.

111. Numerosity: The Class is so numerous that joinder of all members is impracticable. While the exact number and identity of individual members of the Class is unknown at this time, such information being in the sole possession of Google and/or third parties and obtainable by Plaintiff only through the discovery process, Plaintiff believes, and on that basis alleges, that the Class consists of hundreds of thousands of people. The number of Class members can be determined based on Google's and other third party's records.

112. **Commonality:** Common questions of law and fact exist as to all members of each Class. These questions predominate over questions affecting individual Class members. These common legal and factual questions include, but are not limited to:

- a. Whether Google engaged in unfair business practices;
  - b. Whether Google engaged in unlawful business practices;
  - c. Whether Google received, retained, withheld, or concealed stolen property;

<sup>34</sup> Plaintiff reserves the right to expand or amend the Class Period based on discovery produced in this matter.

- 1           d. Whether Google converted the property of others;
- 2           e. Whether Google knowingly and intentionally profited from gift card scams
- 3           involving Google Play gift cards;
- 4           f. Whether Google misrepresents that there is nothing Google can do after Google
- 5           Play gift cards are redeemed;
- 6           g. Whether Google conceals material facts regarding its ability to stop payments and
- 7           return money to scam victims;
- 8           h. Whether Google's conduct violated the California consumer protection statutes
- 9           asserted herein;
- 10          i. Whether the monies obtained by Google from gift card scams rightfully belongs to
- 11          Plaintiff and Class members; and
- 12          j. Whether Google keeps a percentage of stolen money as commission for its own
- 13          use.

14         113. **Typicality:** Plaintiff has the same interest in this matter as all Class members, and  
15 Plaintiff's claims arise out of the same set of facts and conduct as the claims of all Class members.  
16 Plaintiff's and Class members' claims all arise out of Google's uniform misrepresentations,  
17 omissions, and unlawful and unfair acts and practices related to Google Play gift cards.

18         114. **Adequacy:** Plaintiff has no interest that conflicts with the interests of the Class, and  
19 is committed to pursuing this action vigorously. Plaintiff has retained counsel competent and  
20 experienced in complex consumer class action litigation. Accordingly, Plaintiff and her counsel  
21 will fairly and adequately protect the interests of the Class.

22         115. **Superiority:** A class action is superior to all other available means of fair and  
23 efficient adjudication of the claims of Plaintiff and members of the Class. The injury suffered by  
24 each individual Class member is relatively small compared to the burden and expense of individual  
25 prosecution of the complex and extensive litigation necessitated by Google's conduct. It would  
26 be virtually impossible for individual Class members to redress effectively the wrongs done to  
27 them. Even if Class members could afford individualized litigation, the court system could not.  
28 Individualized litigation would increase delay and expense to all parties, and to the court system,

1 because of the complex legal and factual issues of this case. Individualized rulings and judgments  
2 could result in inconsistent relief for similarly situated individuals. By contrast, the class action  
3 device presents far fewer management difficulties, and provides the benefits of single adjudication,  
4 economy of scale, and comprehensive supervision by a single court.

5        116. Defendants have acted or refused to act on grounds generally applicable to the  
6 Class, thereby making final injunctive relief and corresponding declaratory relief appropriate with  
7 respect to the Class as a whole.

**CALIFORNIA LAW APPLIES TO THE ENTIRE CLASS**

9           117. California substantive law applies to every member of the Class, regardless of  
10 where in the United States the Class members reside. Google's terms and conditions state:

**General Terms.** [...] When you purchase, receive or redeem a Gift Card or Credit, you agree that the laws of the State of California apply, without regard to principles of conflict of laws, and that such laws will govern these Gift Card and Credit terms and conditions.<sup>35</sup>

14        118. By choosing California law for the resolution of disputes in the agreement, Google  
15 concedes that it is appropriate for this Court to apply California law to the instant dispute.

16        119. Further, California substantive law may be constitutionally applied to the claims of  
17 Plaintiff and the Class under the Due Process Clause, 14th Amend. §1, and the Full Faith and  
18 Credit Clause, Art. IV §1 of the U.S. Constitution. California has significant contact, or a  
19 significant aggregation of contacts, to the claims asserted by Plaintiff and all Class members,  
20 thereby creating state interests that ensure that the choice of California state law is not arbitrary or  
21 unfair.

22        120. Google's headquarters and principal place of business is located in California.  
23 Google also owns property and conducts a substantial portion of its business in California, and  
24 therefore California has an interest in regulating Google's conduct under its laws. Google's  
25 decision to reside in California and avail itself of California's laws, and to engage in the challenged  
26 conduct from and emanating out of California, renders the application of California law to the  
27 claims herein constitutionally permissible.

<sup>28</sup> See *Terms of Service*, *supra* n.18.



1 to adequately warn consumers about the existence, nature, and prevalence of gift card scams on  
2 the cards themselves, reducing the number of victims who contact Google by including an  
3 unconscionable and adhesive disclaimer on its packaging and in its Online Terms and Conditions,  
4 reducing the number of victims who contact Google by failing to include an instruction to do so  
5 on its cards, and likewise reducing the number of victims who contact Google by falsely suggesting  
6 on its website that, by the time a victim contacts Google, the funds will have become the rightful  
7 property of legitimate content sellers.

8       128. Google's unfair practices designed to perpetuate the scheme and the stream of  
9 revenue it generates for Google also include discouraging victims who do call Google from  
10 vindicating their rights or otherwise taking action against Google by similarly suggesting that the  
11 funds now rightfully belong to someone other than Google or the scammers, and by failing to  
12 inform victims who hear that message of the contrary material facts known only to Google,  
13 including that Google waits weeks before knowingly depositing a percentage of funds stolen from  
14 victims into the bank accounts of Google Play Developers and knowingly keeping a percentage of  
15 funds stolen from victims – up to 100% – for itself.

16       129. Unfair acts under the UCL have been interpreted using three different tests:  
17 (1) whether the public policy, which is a predicate to a consumer unfair competition action under  
18 the unfair prong of the UCL, is tethered to specific constitutional, statutory, or regulatory  
19 provisions; (2) whether the gravity of the harm to the consumer caused by the challenged business  
20 practice outweighs the utility of the defendants' conduct; and (3) whether the consumer injury is  
21 substantial, not outweighed by any countervailing benefits to consumers or competition, and is an  
22 injury that consumers themselves could not reasonably have avoided. Google's conduct alleged  
23 is unfair under all of these tests.

24       130. As a direct and proximate result of Google's unfair practices, Plaintiff and Class  
25 members suffered injury and have paid monies that Google has improperly retained from the  
26 Google Play gift card scam. Google's participation in the gift card scams and concealment of its  
27 role and ability to track and stop payments to scammers, aids and abets scammers and further  
28 perpetuates the scams.

131. Plaintiff seeks to enjoin further unfair acts or practices by Google, to obtain  
2 restitution and disgorgement of all monies generated as a result of such practices, and for all other  
3 relief allowed under CAL. BUS. & PROF. CODE §17200.

## **SECOND CAUSE OF ACTION**

### **Unlawful Practices**

## **in Violation of the California Unfair Competition Law**

**CAL. BUS. & PROF. CODE §17200 *et seq.***

**(on Behalf of the Nationwide Class and the Contact Subclass)**

132. Plaintiff hereby re-alleges and incorporates all allegations in the Complaint, as  
3 though fully set forth herein.

9        133. At all relevant times there was in full force and effect the UCL, CAL. BUS. & PROF.  
10 CODE §17200 *et seq.*, which prohibits, *inter alia*, “any unlawful, unfair or fraudulent business act  
11 or practice” and “unfair, deceptive, untrue or misleading advertising.” CAL. BUS. & PROF. CODE  
12 §17200.

13       134. Google has unlawfully retained millions of dollars in funds that it knows were  
14 stolen from Plaintiff and other victims of the Google Play gift card scam.

15        135. In the course of their business, Google repeatedly and regularly engaged in  
16 unlawful acts or practices that imposed serious harm on consumers, including Plaintiff and Class  
17 members.

18        136. Google's acts and practices are unlawful for many reasons, including because  
19 Google violates Cal. Penal Code §496 by, *inter alia*, intentionally dispersing stolen property in  
20 violation of its affirmative duty to return it or to disclose its whereabouts to its rightful owner.

137. Google's acts and practices are also unlawful because they violate the California  
Consumers Legal Remedies Act ("CLRA").

23        138. Google's acts and practices are also unlawful because Google attempts to apply its  
24 disclaimer language to exculpate itself from its own violations of the Cal. Penal Code and  
25 consumer protection statutes and its own acts of conversion.

26       139. As a direct and proximate result of Google's unlawful practices, Plaintiff and Class  
27 members suffered injury and have paid monies that Google has improperly retained from the  
28 Google Play gift card scam.

1       140. Plaintiff seeks to enjoin further unlawful acts or practices by Google, to obtain  
2 restitution and disgorgement of all monies generated as a result of such practices, and for all other  
3 relief allowed under CAL. BUS. & PROF. CODE §17200.

## **THIRD CAUSE OF ACTION**

### **Unfair Practices**

## **Unfair Practices in Violation of the California Consumers Legal Remedies Act**

CAL. CIV. CODE §1750 *et seq.*

**(on behalf of the Nationwide Class and the Contact Subclass)**

7       141. Plaintiff hereby re-alleges and incorporates all allegations raised in the Complaint,  
8 as though fully set forth herein.

9           142. At all relevant times there was in full force and effect the CLRA, CAL. CIV. CODE  
10 §1750 *et seq.*

11           143. Plaintiff and Class members are “consumers” as that term is defined by CAL. CIV.  
12 CODE §1761(d).

<sup>144</sup> Google is a “person” as that term is defined by CAL. CIV. CODE §1761(c).

14       145. Google engaged in unfair acts in violation of the CLRA by engaging in the practices  
15 described above, including knowingly and intentionally: keeping and disbursing stolen money;  
16 concealing from Plaintiff and Class members that Google can identify the Google Account  
17 belonging to scammers, stop redemption or spending of those accounts, return the value of the  
18 Google Play gift card when provided with the redemption code on the back of a Google Play gift  
19 card; and by retaining the money it received as the result of unlawful conduct.

20        146. Google also engaged in a number of practices designed to perpetuate the scheme  
21 and the stream of revenue it generates for Google. Those practices, which are unfair alone, and  
22 particularly when taken together, include, but are not limited to, failing to adequately warn  
23 consumers about the existence, nature, and prevalence of the scams on the packaging of its gift  
24 cards, failing to adequately warn consumers on the cards themselves about the existence, nature,  
25 and prevalence of scams, reducing the number of victims who contact Google by including an  
26 unconscionable and adhesive disclaimer on its packaging and in its Online Terms and Conditions,  
27 likewise reducing the number of victims who contact Google by failing to include an instruction  
28 to do so on its cards, and reducing the number of victims who contact Google by falsely suggesting

1 on its website that by the time a victim contacts Google, the funds will have become the rightful  
 2 property of legitimate content sellers.

3       147. Google's unfair practices designed to perpetuate the scheme and the stream of  
 4 revenue it generates for Google, also includes discouraging victims who do contact Google from  
 5 vindicating their rights or otherwise taking action against Google by similarly suggesting that the  
 6 funds now rightfully belong to someone other than Google or the scammers, and by uniformly  
 7 failing to inform victims of the contrary material facts known only to Google, including that  
 8 Google waits weeks before knowingly depositing a portion of the funds stolen from victims into  
 9 the bank accounts of Google Play Developers and knowingly keeping a percentage of the funds  
 10 stolen from victims – at times up to 100% – for itself.

11       148. In the course of its business, Google repeatedly and regularly engaged in unfair acts  
 12 or practices that imposed serious harm on consumers, including Plaintiff and Class members.

13       149. Google's acts and practices are unfair because they offend public policy, are  
 14 immoral, unethical, oppressive, unscrupulous, and substantially injurious to consumers, including  
 15 Plaintiff and members of the Class.

16       150. The injuries suffered by Plaintiff and Class members greatly outweigh any potential  
 17 countervailing benefit to consumers or competition, and are not injuries that Plaintiff and Class  
 18 members should have reasonably avoided.

19       151. The acts and practices complained of herein violate, at a minimum, the sections of  
 20 the CLRA, which prohibit inserting an unconscionable provision in a contract.

21       152. As set forth above, Google inserted an unconscionable and adhesive provision in  
 22 the Online Terms and Conditions. Google's attempt to disclaim liability for all lost or stolen gift  
 23 cards discourages consumers from contacting Google, and the provision cannot lawfully be applied  
 24 to Google Play gift cards involved in gift card scams because Google engages in conduct in  
 25 connection with those scams that is unlawful, including but not limited to violation of penal code  
 26 provisions and consumer protection statutes. Google's attempt to disclaim liability for its knowing  
 27 participation in and profiting from gift card scams is unconscionable.

28

153. Pursuant to §1782(a) & (d) of the CLRA, on March 5, 2024, Plaintiff's counsel  
1 notified Defendants in writing by certified mail of the particular violations of §1770 of the CLRA  
2 and demanded that they rectify the problems associated with the actions detailed above and give  
3 notice to all affected consumers of Defendants' intent to act. If Defendants fail to respond to  
4 Plaintiff's letter or agree to rectify the problems associated with the actions detailed above and  
5 give notice to all affected consumers within 30 days of the date of written notice, as prescribed by  
6 §1782, Plaintiff will move to amend her Complaint to pursue claims for actual, punitive, and  
7 statutory damages, as appropriate against Defendants. As to this cause of action, at this time,  
8 Plaintiff seeks injunctive relief.

10       154. Plaintiff and the Class therefore also request this Court enter such orders or  
11 judgments necessary to restore to any person any money acquired as a result of Google's unfair  
12 business practices, and for such other relief, including attorneys' fees and costs, as provided in  
13 CAL. CIV. CODE §1780 and the Prayer for Relief.

## **FOURTH CAUSE OF ACTION**

## **Unlawful Practices**

## **in Violation of the California Consumers Legal Remedies Act**

CAL. CIVIL CODE §1750 *et seq.*

**(on Behalf of the Nationwide Class and the Contact Subclass)**

17        155. Plaintiff hereby re-alleges and incorporates all allegations in the Complaint, as  
18 though fully set forth herein.

19           156. At all relevant times there was in full force and effect the CLRA, CAL. CIV. CODE  
20 §1750 *et seq.*

21       157. Plaintiff and Class members are “consumers” as that term is defined by CAL. CIV.  
22 CODE §1761(d).

<sup>23</sup> 158. Google is a “person” as that term is defined by CAL. CIV. CODE §1761(c).

24        159. Google engaged in unlawful acts in violation of the CLRA by the practices  
25 described herein.

26        160. In the course of their business, Google repeatedly and regularly engaged in  
27 unlawful acts or practices that imposed serious harm on consumers, including Plaintiff and the  
28 Class members.

1       161. Google's acts and practices are unlawful for many reasons, including because  
2 Google violates Cal. Penal Code §496 by, *inter alia*, intentionally dispersing stolen property in  
3 violation of its affirmative duty to return it or to disclose its whereabouts to its rightful owner.

4 162. Google's acts and practices are also unlawful because they violate the California  
5 Unfair Competition Law.

6       163. Google's acts and practices are also unlawful because Google attempts to apply its  
7 disclaimer language to exculpate itself from its own violations of the Cal. Penal Code and  
8 consumer protection statutes and its own acts of conversion.

9       164. Pursuant to §1782(a) & (d) of the CLRA, on March 5, 2024, Plaintiff's counsel  
10 notified Defendants in writing by certified mail of the particular violations of §1770 of the CLRA  
11 and demanded that they rectify the problems associated with the actions detailed above and give  
12 notice to all affected consumers of Defendants' intent to act. If Defendants fail to respond to  
13 Plaintiff's letter or agree to rectify the problems associated with the actions detailed above and  
14 give notice to all affected consumers within 30 days of the date of written notice, as prescribed by  
15 §1782, Plaintiff will move to amend her Complaint to pursue claims for actual, punitive, and  
16 statutory damages, as appropriate against Defendants. As to this cause of action, at this time,  
17 Plaintiff seeks injunctive relief.

18       165. Plaintiff and the Class members therefore also request this Court enter such orders  
19 or judgments necessary to restore to any person any money acquired as a result of Google's  
20 unlawful business practices, and for such other relief, including attorneys' fees and costs, as  
21 provided in CAL. CIV. CODE §1780 and the Prayer for Relief.

**FIFTH CAUSE OF ACTION**  
**Receiving, Retaining, Withholding, or Concealing Stolen Property  
in Violation of Cal. Penal Code §496  
(on Behalf of the Nationwide Class and the Contact Subclass)**

25        166. Plaintiff hereby re-alleges and incorporates all allegations in the Complaint, as  
26 though fully set forth herein.

27        167. California Penal Code §496 declares unlawful for any “person who buys or receives  
28 any property that has been stolen or that has been obtained in any manner constituting theft or

1 extortion, knowing the property to be so stolen or obtained, [to] conceal[], sell[], withhold[] . . .  
 2 any property from the owner. . . .” Cal. Penal Code §496(a).

3       168. Here, Google has (1) received, (2) retained, (3) withheld, and (4) concealed stolen  
 4 property, namely the money that Class members paid for the Google Play gift cards.

5       169. It is the money belonging to Plaintiff and Class members that scammers wish to  
 6 steal and do steal, rather than the stored value on Google Play gift cards. Indeed, prior to the scam,  
 7 victims do not possess any Google Play gift cards or stored value. Instead, they have money, and  
 8 that money leaves their possession and control and is stolen from them through false pretenses at  
 9 the time of the retail sale of the gift card. Similarly, scammers do not desire stored value for their  
 10 own use, *i.e.*, for their own consumption of digital products. Instead, scammers desire and steal  
 11 money, and spend the stored value on gift cards only as a method of obtaining money through gift  
 12 card scams. The money that Google ultimately receives in connection with the sale of scammed  
 13 Google Play gift cards is the money that was stolen from the victim.

14       170. California Penal Code §496 also creates a private right of action for “any person  
 15 who has been injured by a violation of subdivision (a).” Cal. Penal Code §496(c).

16       171. At all relevant times, Plaintiff and Class members were the rightful owners of the  
 17 money used to purchase the Google Play gift cards.

18       172. Plaintiff’s and Class members’ property was stolen or obtained in a manner  
 19 constituting theft or extortion by the scammers. The scammers, through false representations  
 20 and/or false pretenses defrauded Plaintiff and Class members, convincing them to purchase Google  
 21 Play gift cards.

22       173. Google eventually comes into possession of Plaintiff’s and Class members’ money  
 23 (which is passed from the retailer which sells the card to an entity known as an integrator, which  
 24 then passes the money to Google).

25       174. By the time it receives the money that was stolen from Plaintiff and Class members,  
 26 Google has actual knowledge that it was stolen. Google obtains actual knowledge when victims  
 27 of Google Play gift card scams contact Google, advise Google that they were the victim of a scam,  
 28 and provide Google with the codes on the back of the gift card. Additionally, on information and

1 belief, Google possesses other means and technology to determine, well before Google receives  
2 the stolen money associated with particular cards, which Google Play gift cards have been  
3 redeemed by scammers, the identity of the Google Account(s) involved in gift card scams, and the  
4 identity of victims of gift card scams.

5        175. Google wrongfully conceals the location of Plaintiff's and Class members' property  
6 by informing them that the gift card funds have been spent, despite the fact that Google does not  
7 pay Google Play Developers for purchases made with Google Play gift cards until approximately  
8 15 days after the close of the month that a purchase occurred. Additionally, Google conceals that,  
9 when it freezes the gift cards and/or Google Accounts associated with gift card scams, it retains  
10 up to 100% of the victim's money.

11        176. Google wrongfully retains the property stolen from Plaintiff and Class members by  
12 refusing to return the property that rightfully belongs to Plaintiff and Class members. Even after  
13 Google transfers a portion of the money to Google Play Developers, Google continues to  
14 wrongfully retain possession of Plaintiff's and Class members' property by retaining its  
15 commission on purchases made with the funds from the Google Play gift cards.

16           177. As a direct and proximate result of Google's conduct, Plaintiff and Class members  
17 suffered damages.

## **SIXTH CAUSE OF ACTION**

## Conversion

**(on Behalf of the Nationwide Class and the Contact Subclass)**

178. Plaintiff hereby re-alleges and incorporates all allegations in the Complaint, as  
though fully set forth herein.

179. At all relevant times, Plaintiff and Class members had a right to possession in, and  
were the rightful owners of, the money used to purchase the Google Play gift cards containing  
stored value which could be used in the Google Play Store.

25       180. Google has actual knowledge that it is in possession of Plaintiff's and Class  
26 members' property when victims of Google Play gift card scams contact Google, advise Google  
27 that they were the victim of a scam, and provide Google with the codes on the back of the gift card.  
28 Additionally, on information and belief, Google possesses other means and technology to

1 determine which Google Play gift cards have been redeemed by scammers, the identity of the  
2 Google Account involved in gift card scams, and the identity of gift card scam victims.

3       181. Google substantially interfered with Plaintiff's and Class members' property by  
4 knowingly and intentionally retaining a commission on all purchases made with the stolen property  
5 and refusing to return Plaintiff's and Class members' property. Google permanently deprived  
6 Plaintiff and Class members from the use and enjoyment of their property.

7       182. Plaintiff and Class members who contacted Google demanded that Google return  
8 their property. Google denied the demands to return the property. Moreover, it was unnecessary  
9 for Plaintiff and Class members to demand return of the property as, on information and belief,  
10 Google possesses other means and technology to determine which Google Play gift cards have  
11 been redeemed by scammers, the identity of the Google Account and Google Play Developer  
12 accounts involved in gift card scams, and the identity of gift card scam victims.

13        183. Plaintiff's and Class members' property was used to purchase Google Play gift  
14 cards under false pretenses.

15        184. Plaintiff and Class members did not consent for Google to exercise dominion or  
16 control or to retain their property.

17       185. Google's conduct was a substantial factor in the harm caused to Plaintiff and Class  
18 members.

## **SEVENTH CAUSE OF ACTION**

## **Declaratory Judgment**

28 U.S.C. §2201

**(on Behalf of the Nationwide Class and the Contact Subclass)**

186. Plaintiff hereby re-alleges and incorporates all allegations raised in the Complaint,  
as though fully set forth herein.

24       187. Under the Declaratory Judgment Act, 28 U.S.C. §2201 *et seq.*, this Court is  
25 authorized to enter a judgment declaring the rights and legal relations of the parties and grant  
26 further necessary relief. Furthermore, the Court has broad authority to restrain acts, such as those  
27 alleged herein, that are tortious and that violate the terms of the federal and state statutes described  
28 in this Complaint.

1       188. Plaintiff seeks a declaration of the rights of the parties under the Federal  
 2 Declaratory Judgement Act, 28 U.S.C. §2201.

3       189. An actual and justiciable controversy exists between the parties in light of Google  
 4 misrepresenting that there was nothing that they can do when Plaintiff contacted Google to report  
 5 being a victim of a scam involving Google Play gift cards, and by failing to disclose that Google  
 6 can identify the Google Play gift cards, Google Accounts, Google Play Developer accounts,  
 7 knowingly makes payments to accounts involved in gift card scams, and fails to return the money  
 8 to Plaintiff and the Class.

9       190. Google purports to bind Plaintiff and Class members to the terms and conditions  
 10 set forth on the back of Google Play gift cards and the Online Terms and Conditions on Google's  
 11 website. The back of the Google Play gift cards provides, in part: "Terms & Conditions: For  
 12 additional terms and privacy policy visit play.google.com/us-card-terms." The Online Terms and  
 13 Conditions provide, in part, that: "[Defendant Google Arizona LLC] and [Defendant Google  
 14 Payment Corp.] are not responsible if a Gift Card or Credit is lost, stolen, destroyed, or used  
 15 without your permission. [Defendants] will have the right to close customer accounts and bill  
 16 alternative forms of payment if a fraudulently obtained Gift Card or Credit is redeemed and/or  
 17 used to make purchases on Google Play."

18       191. Plaintiff and Class members lack an adequate remedy at law.

19       192. Google cannot, as a matter of law, disclaim or assign the liability of loss,  
 20 conversion, or destruction of the balance of Google Play gift cards when Google knows that the  
 21 Google Play gift cards were purchased as a result of wrongful and unlawful conduct, Google has  
 22 knowledge of the gift card scams perpetrated on Plaintiff and Class members, Google engages in  
 23 practices which perpetuate the gift card scams, and Google knowingly retains profits from the gift  
 24 card scams perpetrated on Plaintiff and Class members. Google cannot, as a matter of law,  
 25 disclaim or assign the liability of loss for its own criminal conduct, including its violation of Cal.  
 26 Penal Code §496, described *supra*.

27       193. Google's attempt to disclaim liability is unconscionable and unenforceable as to  
 28 Plaintiff and Class members, and Plaintiff seeks a declaration to that effect.

## **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, individually, and on behalf of all others similarly situated, respectfully requests that this Court:

- A. Determine that the claims alleged herein may be maintained as a class action under Rule 23 of the Federal Rules of Civil Procedure, and issue an order certifying one or more of the Classes defined above;
  - B. Appoint Plaintiff as the representative of the Class and her counsel as Class counsel;
  - C. Award all actual, general, special, incidental, statutory, punitive, and consequential damages, and restitution to which Plaintiff and the Class members are entitled by law;
  - D. Award pre-judgment and post-judgment interest on such monetary relief;
  - E. Grant appropriate injunctive and/or declaratory relief, including, without limitation, an order that requires Defendants to refrain from seeking to enforce the Google Play gift card terms and conditions on victims of gift card scams who did not redeem the Google Play gift card, and to refrain from transferring any money to Google Play Developer accounts associated with gift card scams;
  - F. Award reasonable attorneys' fees and costs; and
  - G. Grant such further relief that this Court deems appropriate.

**JURY DEMAND**

Plaintiff, on behalf of herself and the putative Class, demands a trial by jury on all issues so triable.

Dated: March 5, 2024

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*\*Pro hac vice forthcoming*